

AMENDED IN ASSEMBLY AUGUST 31, 2007

AMENDED IN SENATE JUNE 4, 2007

AMENDED IN SENATE MAY 22, 2007

AMENDED IN SENATE APRIL 17, 2007

AMENDED IN SENATE MARCH 28, 2007

## SENATE BILL

**No. 153**

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### **Introduced by Senators Migden and Runner**

*(Principal coauthor: Assembly Member Leno)*

January 29, 2007

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An act to add Sections 13969.7 and 13974.6 to the Government Code, and to amend Section 1464 of, and to add Sections 11166.6 and 11166.7 to, the Penal Code, relating to victim services, *and making an appropriation therefor.*

#### LEGISLATIVE COUNSEL'S DIGEST

SB 153, as amended, Migden. Victim services.

Existing law, the Child Abuse and Neglect Reporting Act, requires specified persons to report suspected child abuse or neglect.

This bill would provide that a county may enter into grants for interview services with the Office of Emergency Services for the recovery of costs associated with the provision of child victim forensic evidentiary interviews conducted by child advocacy centers. The bill would authorize counties to establish child advocacy centers to coordinate the activities of the various agencies involved in the investigation and prosecution of alleged child abuse. The bill would require each county that establishes a child advocacy center to develop an interagency protocol agreement, as specified. ~~The~~

*This bill would also establish the Victim Trauma Recovery Fund for the purpose of supporting victim recovery programs, and direct the ~~Office of Emergency Services~~ Victim Compensation and Government Claims Board to use the fund to award grants for those purposes as specified.*

Existing law creates the State Penalty Fund into which moneys collected by the courts for the imposition of fines, forfeitures, or penalties on criminal offenses are deposited. Once a month, certain percentages of money in that fund are transferred into other funds, including the Peace Officers' Training Fund, the Driver Training Penalty Assessment Fund, and the Victim-Witness Assistance Fund.

This bill would change the percentage of money that is deposited into each of the above-mentioned funds from the State Penalty Fund, and would create the Child Advocacy Center Fund, into which ~~3.52%~~ 3.22% of state penalty funds in the State Penalty Fund would be deposited monthly. Money in the fund would be used to support county child advocacy centers. Additionally, 1.81% of the State Penalty Fund would be transferred monthly to the Victim Trauma Recovery Fund, ~~and 1.81%~~ monthly would be transferred to the Department of Justice to be used to support the California Witness Protection Program, *and 0.22% would be transferred to the Department of Justice to be used to help victims of crimes committed because of their sexual orientation or identification.*

*This bill would provide that the provisions of the bill will become operative only if the General Fund has achieved ongoing structural balance on or before July 1, 2015, as specified.*

*Existing provisions of the Penal Code continuously appropriate money into the Peace Officers' Training Fund.*

*Because this bill would increase the amount of money deposited in the fund, it would make an appropriation.*

The provisions of the bill would become operative on July 1, 2008.

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 13969.7 is added to the Government
- 2 Code, to read:
- 3 13969.7. (a) Notwithstanding Sections ~~13960~~ 13962 to 13966,
- 4 inclusive, a county *or a private nonprofit agency* may enter into
- 5 grants for interview services with the Office of Emergency Services

1 for the recovery of costs associated with the provision of child  
2 victim forensic evidentiary interviews conducted by child advocacy  
3 centers as described in Section 11166.6 of the Penal Code, and in  
4 accordance with its adopted interagency protocol agreement  
5 described in Section 11166.7 of the Penal Code.

6 (b) The grants for interview services shall provide funding for  
7 capacity building expenditures and training related to conducting  
8 a forensic evidentiary interview.

9 (c) Personnel costs of child advocacy centers that are incurred  
10 by the representatives of the various participating county  
11 departments are not eligible within the scope of the grants.

12 (d) For purposes of this section, “child victim” means a person  
13 under 18 years of age who has been reported to an agency specified  
14 in Section 11165.9 of the Penal Code to be a known or suspected  
15 victim of child abuse as described in Section 11165.6 of the Penal  
16 Code.

17 (e) The amount of the grants shall be determined by the Office  
18 of Emergency Services, in consultation with an advisory group  
19 established by that office, comprised of representatives from the  
20 following disciplines: prosecutors, law enforcement, victims’  
21 services, pediatric medicine, *California Network of Child Advocacy*  
22 *Centers*, and child protective services.

23 (f) The Office of Emergency Services shall draw funds from  
24 the Child Advocacy Center Fund for purposes of entering into  
25 grants for interview services.

26 (g) The Office of Emergency Services shall develop grant  
27 requirements and award those grants beginning on July 1, 2008.

28 (h) The Office of Emergency Services may retain up to 5 percent  
29 of those funds for purposes of administering those grants.

30 ~~(i) This section shall become operative on July 1, 2008.~~

31 *(i) This section shall become operative only if the General Fund*  
32 *has achieved ongoing structural balance on or before July 1, 2015.*  
33 *Ongoing structural balance is achieved only if all economic*  
34 *recovery bonds are retired and the May Revision of the Governor’s*  
35 *Budget shows revenues exceeding expenditures during both the*  
36 *prior and current years, excluding proceeds from borrowing.*

37 SEC. 2. Section 13974.6 is added to the Government Code, to  
38 read:

39 13974.6. (a) The Victim Trauma Recovery Fund is hereby  
40 created for the purpose of supporting victim recovery, resource,

1 and treatment programs to provide comprehensive recovery  
2 services to victims of crime.

3 ~~(b) The Office of Emergency Services Victim Compensation~~  
4 ~~and Government Claims Board~~ shall select up to five sites to award  
5 grants pursuant to this section. The sites shall include, but need  
6 not be limited to, all of the following programmatic components:

7 (1) Establishment of a victim recovery, resource, and treatment  
8 center.

9 (2) Implementation of a crime scene mobile outreach team to  
10 provide comprehensive intervention and debriefing for children  
11 and families.

12 (3) Community-based outreach.

13 (4) Services to family members and loved ones of homicide  
14 victims.

15 (c) Victim recovery, resource, and treatment programs selected  
16 by the ~~Office of Emergency Services Victim Compensation and~~  
17 ~~Government Claims Board~~ shall serve populations of crime victims  
18 whose needs are not currently being met, shall be distributed  
19 geographically to serve the state's population, and shall include  
20 services to all of the following:

21 (1) Individuals who are not aware of the breadth and range of  
22 services provided to victims of crime.

23 (2) Individuals residing in communities with limited services.

24 (3) Individuals who cannot access services due to disability.

25 (4) Family members and loved ones of homicide victims.

26 ~~(d) The Office of Emergency Services Victim Compensation~~  
27 ~~and Government Claims Board~~ shall award those grants beginning  
28 on July 1, 2008.

29 ~~(e) The Office of Emergency Services Victim Compensation~~  
30 ~~and Government Claims Board~~ may retain up to 5 percent of those  
31 funds for the purposes of administering those grants.

32 ~~(f) This section shall become operative on July 1, 2008.~~

33 *(f) This section shall become operative only if the General Fund*  
34 *has achieved ongoing structural balance on or before July 1, 2015.*  
35 *Ongoing structural balance is achieved only if all economic*  
36 *recovery bonds are retired and the May Revision of the Governor's*  
37 *Budget shows revenues exceeding expenditures during both the*  
38 *prior and current years, excluding proceeds from borrowing.*

39 SEC. 3. Section 1464 of the Penal Code is amended to read:

1 1464. (a) Subject to Chapter 12 (commencing with Section  
2 76000) of Title 8 of the Government Code, there shall be levied a  
3 state penalty, in an amount equal to ten dollars (\$10) for every ten  
4 dollars (\$10) or fraction thereof, upon every fine, penalty, or  
5 forfeiture imposed and collected by the courts for criminal offenses,  
6 including all offenses, except parking offenses as defined in  
7 subdivision (i) of Section 1463, involving a violation of a section  
8 of the Vehicle Code or any local ordinance adopted pursuant to  
9 the Vehicle Code. Any bail schedule adopted pursuant to Section  
10 1269b may include the necessary amount to pay the state penalties  
11 established by this section and Chapter 12 (commencing with  
12 Section 76000) of Title 8 of the Government Code for all matters  
13 where a personal appearance is not mandatory and the bail is posted  
14 primarily to guarantee payment of the fine.

15 (b) Where multiple offenses are involved, the state penalty shall  
16 be based upon the total fine or bail for each case. When a fine is  
17 suspended, in whole or in part, the state penalty shall be reduced  
18 in proportion to the suspension.

19 (c) When any deposited bail is made for an offense to which  
20 this section applies, and for which a court appearance is not  
21 mandatory, the person making the deposit shall also deposit a  
22 sufficient amount to include the state penalty prescribed by this  
23 section for forfeited bail. If bail is returned, the state penalty paid  
24 thereon pursuant to this section shall also be returned.

25 (d) In any case where a person convicted of any offense, to  
26 which this section applies, is in prison until the fine is satisfied,  
27 the judge may waive all or any part of the state penalty, the  
28 payment of which would work a hardship on the person convicted  
29 or his or her immediate family.

30 (e) After a determination by the court of the amount due, the  
31 clerk of the court shall collect the penalty and transmit it to the  
32 county treasury. The portion thereof attributable to Chapter 12  
33 (commencing with Section 76000) of Title 8 of the Government  
34 Code shall be deposited in the appropriate county fund and 70  
35 percent of the balance shall then be transmitted to the State  
36 Treasury, to be deposited in the State Penalty Fund, which is hereby  
37 created, and 30 percent to remain on deposit in the county general  
38 fund. The transmission to the State Treasury shall be carried out  
39 in the same manner as fines collected for the state by a county.

(f) The moneys so deposited in the State Penalty Fund shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.33 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month, except that the total amount shall not be less than the state penalty levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. These moneys shall be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to 30.21 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Those funds shall be made available in accordance with Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 32.44 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to .67 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 13.80 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to .95 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to 13.80 percent of the state penalty funds deposited in the State Penalty Fund during the preceding month.

(8) (A) Once a month there shall be transferred into the Traumatic Brain Injury Fund, created pursuant to Section 4358 of

the Welfare and Institutions Code, an amount equal to 0.66 percent of the state penalty funds deposited into the State Penalty Fund during the preceding month. However, the amount of funds transferred into the Traumatic Brain Injury Fund for the 1996–97 fiscal year shall not exceed the amount of five hundred thousand dollars (\$500,000). Thereafter, funds shall be transferred pursuant to the requirements of this section. Notwithstanding any other provision of law, the funds transferred into the Traumatic Brain Injury Fund for the 1997–98, 1998–99, and 1999–2000 fiscal years, may be expended by the State Department of Mental Health, in the current fiscal year or a subsequent fiscal year, to provide additional funding to the existing projects funded by the Traumatic Brain Injury Fund, to support new projects, or to do both.

(B) Any moneys deposited in the State Penalty Fund attributable to the assessments made pursuant to subdivision (i) of Section 27315 of the Vehicle Code on or after the date that Chapter 6.6 (commencing with Section 5564) of Part 1 of Division 5 of the Welfare and Institutions Code is repealed shall be utilized in accordance with paragraphs (1) to (8), inclusive, of this subdivision.

(9) Once a month there shall be transferred into the Child Advocacy Center Fund created pursuant to subdivision (c) of Section 11166.6, an amount equal to ~~3.52~~ 3.30 percent of the state penalty funds deposited into the State Penalty Fund during the preceding month.

(10) Once a month there shall be transferred into the Victim Trauma Recovery Fund created pursuant to subdivision (a) of Section 13974.6, an amount equal to 1.81 percent of the state penalty funds deposited into the State Penalty Fund during the preceding month.

(11) 1.81 percent of the State Penalty Fund shall be allocated to the Department of Justice to be used to support the California Witness Protection Program created pursuant to Section 14020 of the Penal Code.

*(12) .22 percent of the State Penalty Fund shall be allocated to the Department of Justice to be used for grants to organizations working to address violence committed against persons because of their sexual orientation or gender identity.*

(g) The amendments to this section made by the Legislature in the 2007 portion of the 2006–07 Regular Session shall ~~become operative on July 1, 2008.~~ *become operative only if the General*

1 *Fund has achieved ongoing structural balance on or before July*  
2 *1, 2015. Ongoing structural balance is achieved only if all*  
3 *economic recovery bonds are retired and the May Revision of the*  
4 *Governor's Budget shows revenues exceeding expenditures during*  
5 *both the prior and current years, excluding proceeds from*  
6 *borrowing.*

7 SEC. 4. Section 11166.6 is added to the Penal Code, to read:

8 11166.6. (a) Each county may establish child advocacy centers  
9 to coordinate the activities of the various agencies involved in the  
10 investigation and prosecution of alleged child abuse, including  
11 those that provide medical services and followup treatment to  
12 victims of child abuse. The purpose of these centers is to protect  
13 victims of child abuse by minimizing traumatizing interviews  
14 through the coordination of efforts of district attorneys, child  
15 welfare social workers, law enforcement, and medical personnel,  
16 among others, and to assist prosecution by reducing the chances  
17 of conflicting or inaccurate information by asking age-appropriate  
18 questions to help procure information that is admissible in court.

19 (b) (1) ~~Members~~ *Member agencies* of the child advocacy center  
20 shall, at a minimum, consist of a representative from the district  
21 attorney's office, the sheriff's department, a police department,  
22 child protective services, and may include medical and mental  
23 health professionals.

24 (2) Members of the local child advocacy center shall be trained  
25 to conduct child forensic interviews. The training shall include  
26 instruction in risk assessment, the dynamics of child abuse,  
27 including the abuse of children with special needs, child sexual  
28 abuse and rape of children, and legally sound and age-appropriate  
29 interview and investigation techniques.

30 (c) The Child Advocacy Center Fund is hereby created for the  
31 purposes of supporting ~~county~~ child advocacy centers. Money  
32 appropriated from the fund shall be made available through the  
33 Office of Emergency Services to any public or private nonprofit  
34 agency for the establishment or maintenance, or both, of child  
35 advocacy centers that provide comprehensive child advocacy  
36 services, as specified in this section.

37 ~~(d) This section shall become operative on July 1, 2008.~~

38 (d) *This section shall become operative only if the General Fund*  
39 *has achieved ongoing structural balance on or before July 1, 2015.*  
40 *Ongoing structural balance is achieved only if all economic*



1 *recovery bonds are retired and the May Revision of the Governor's*  
2 *Budget shows revenues exceeding expenditures during both the*  
3 *prior and current years, excluding proceeds from borrowing.*

4 SEC. 5. Section 11166.7 is added to the Penal Code, to read:

5 11166.7. To qualify for state funding pursuant to Section  
6 13969.7 of the Government Code, each county that establishes a  
7 multidisciplinary team or center pursuant to Section 11166.6 shall  
8 adopt a written protocol as follows:

9 (a) Each county shall develop an interagency protocol agreement  
10 for the investigation of child abuse and neglect that shall be signed  
11 by appropriate persons from the office of the district attorney, the  
12 sheriff's department, the police department, child protective  
13 services or an equivalent agency administering child welfare, and  
14 public health and medical examiners.

15 (b) The protocol agreement may include, but is not limited to,  
16 the following additional entities:

- 17 (1) School districts.
- 18 (2) Probation departments.
- 19 (3) Courts.
- 20 (4) County counsel.
- 21 (5) Tribal council representatives.
- 22 (6) Clergy.
- 23 (7) Regional centers.
- 24 (8) Mental health.
- 25 (9) Counsel for children.
- 26 (10) CASA (Court Appointed Special Advocates).
- 27 (11) Ancillary law enforcement agencies, including the federal  
28 government and the military.
- 29 (12) Victim witness programs.
- 30 (13) Child abuse councils.

31 (c) Each protocol agreement shall include the following:

- 32 (1) A mission goal and mission statement.
- 33 (2) Written standards and procedures.
- 34 (3) A procedure for periodic review by all agencies involved.
- 35 (4) A procedure for dissemination to all parties involved.
- 36 (5) A procedure for training about the requirements of the  
37 protocol agreement.
- 38 (6) Recognition of the need for ongoing training procedures for  
39 professionals involved in the investigation of child abuse.

(7) Hiring requirements that specify that staff shall have knowledge of the language and cultural needs of the victims of child abuse.

(d) The protocol agreement shall address all children, including children with special needs, suspected of being abused or neglected in the following situations:

(1) Intrafamily or in the home.

(2) Out-of-home care facilities, including, but not limited to, day care, group homes, public or private schools, foster care, and licensed facilities.

(3) Perpetration by a stranger.

(4) Siblings of a child abuse fatality victim.

(e) The protocol agreement shall address the following sequence of responses that takes into account the emotional and physical well-being of the child victim:

(1) The initial response following a referral shall be coordinated among first responders to reduce repetitive interviews with or questions to the child. Specifically, the protocol agreement shall outline the procedures by which first responders share information with each other. For the purposes of this section, “first responders” means officials from a child protective service agency or a law enforcement agency.

(2) Investigative procedures for forensic evidence gathering.

(3) Child abuse reporting procedures and cross-reporting procedures.

(4) Minimum standards for levels of professional competency.

(5) Knowledge of legal authority.

(6) Procedures for sharing information with all the parties involved in the investigation.

(7) Procedures for getting information about the child victim back to reporters.

(8) Procedures for transporting a child, specifying who may take the child, where the child may be taken, and under what conditions the child may be taken. In addition, there shall also be procedures for transporting family members if the need arises.

(9) Procedures to ensure that a child with special needs receives prescribed medication or has special equipment, such as a wheelchair.

(f) Procedures shall also include the following considerations for forensic evidentiary interviews and medical examinations:

1 (1) The qualification of personnel conducting the interview or  
2 examination.

3 (2) The location of the interview or examination.

4 (3) The procedures for documentation.

5 (4) The guidelines for deciding which agency budget will cover  
6 the cost of examinations and interviews.

7 (5) The definition or criteria under which a child qualifies for  
8 an examination or interview.

9 (g) The protocol agreement shall address the following issues:

10 (1) Procedures for dealing with the denial of entry to any of the  
11 responders to a referral for child abuse or neglect.

12 (2) Procedures for obtaining the necessary consent for medical  
13 examinations and forensic interviews.

14 (3) Procedures for sharing information among mandated  
15 reporters, first responders, professionals, and followup  
16 investigations.

17 (4) Procedures for sharing information among professional child  
18 abuse investigators that address issues of confidentiality.

19 (5) Procedures for providing information about protective orders,  
20 ~~prior history criminal background checks, court actions, and~~  
21 placement orders.

22 (6) Procedures for emergency situations or professional  
23 judgment that allow for deviation from the protocols.

24 (7) Procedures to develop a tracking system to receive and  
25 coordinate all information, *except local, state, or federal criminal*  
26 *history information*, relating to a case of child abuse that is in the  
27 possession of any agency involved in the investigation or  
28 prosecution of child abuse, including law enforcement agencies,  
29 child protective service agencies, county welfare agencies, and  
30 licensing agencies.

31 (h) The protocol agreement shall explain how the interagency  
32 protocol for child abuse investigation interfaces with or  
33 acknowledges the protocols of individual agencies involved and  
34 shall include procedures for resolving any conflicts among those  
35 protocols.

36 ~~(i) This section shall become operative on July 1, 2008.~~

37 (i) *This section shall become operative only if the General Fund*  
38 *has achieved ongoing structural balance on or before July 1, 2015.*  
39 *Ongoing structural balance is achieved only if all economic*  
40 *recovery bonds are retired and the May Revision of the Governor's*

- 1 *Budget shows revenues exceeding expenditures during both the*
- 2 *prior and current years, excluding proceeds from borrowing.*

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